

**Weights and Measures, Application of to Wrapped Meats.
Meats, Applicability of Chapter 83, Laws 1913, to.**

Meats wrapped for cleaner and more sanitary handling, such as hams and bacon, not being packages in the ordinary sense of the term, and the weight thereof not being under the control of the producer, were not intended to be within the provisions of Chapter 83, Session Laws of 1913.

March 3rd 1914.

Hon. John P. Riddell,
Deputy State Sealer of Weights and Measures,
Helena, Montana.

Dear Sir:

I am in receipt of your communication under date of February 17th, 1914, enclosing letter from one of the packing companies which states their position in regard to the interpretation of our weights and measures law as applied to hams, bacons and other meats wrapped with cover for protection. You submit also to me the question of your jurisdiction under Chap. 83, Laws of the Thirteenth Legislative Assembly, over such matters as wrapped meats.

The question for consideration here is whether or not portions of meat wrapped as they are by the packing companies can be classed as packages. The ordinary meaning of "package" is a bundle of articles, either all of the same kind or of different kinds, put up for convenient transportation. In almost every case, except the one which we are here considering, the size of the bundle or package is wholly within the control of the person putting it up, since he may put a greater or less number of articles or a greater or less quantity of a given product in the package. In other words, the amount contained in the package, bundle, bale, etc., is a matter entirely within the will of the person collecting it. In the case of hams or sides of meat, however, such matters are not entirely within the control of the person preparing them. The variations in size and weight of these articles depends entirely upon the size of the animal from which they are taken. The custom of the trade has established a certain way or method of selling such articles.

The cases cited in your enclosure, deciding similar questions to your own, arising under the statutes of various states, all hold that hams, bacons and meats wrapped at point of production for more cleanly and sanitary transportation, are not within the purview of such statutes. It is hard to say how very much misrepresentation could be practiced in such a matter as this, or how natural difficulties could well be overcome. The weight might be stamped upon a piece of meat at the time it was wrapped, but because of the natural shrinkage, which is at no times uniform and which depends upon a number of different factors, it would be impossible to tell at a given time just what the shrinkage upon a piece of meat so packed would be. The persons who deal in such matters—that is, the butchers and the packing companies—all understand these problems and are in no way deceived. Persons purchasing from retail merchants have the privilege, if they like, of having their meat unwrapped and weighed and taking it in that form if they are not satisfied to accept the weight of the wrapped article.

For the reason, therefore, that hams, bacons and other wrapped meats, which are sold in the form from which they come from the animal, are not packages, bales or bundles in the ordinary conception of that term, and are in such form that the producer has no means of controlling the exact weight thereof when they are put up, and

for the reason that the custom of selling them in this manner is so well understood by persons dealing in such articles, that deception, fraud or misrepresentation would be extremely difficult to accomplish, I am of the opinion that articles prepared for sale in this manner were not intended to be included within the terms of Chap. 83, Session Laws of the Thirteenth Legislative Assembly.

Yours very truly,

D. M. KELLY,
Attorney General.